

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Criminal Action No.
)	07-00419-01-CR-W-HFS
LUCAS CUNNINGHAM,)	
)	
Defendant.)	

**MEMORANDUM OF MATTERS DISCUSSED AND
ACTION TAKEN AT PRETRIAL CONFERENCE**

Pursuant to the order of the Court en banc of the United States District Court for the Western District of Missouri, a pretrial conference was held in the above-entitled cause before me on September 17, 2008. Defendant Cunningham appeared in person and with Sean Pickett. The United States of America appeared by Assistant United States Attorney Kate Mahoney.

I. BACKGROUND

On December 17, 2007, an indictment was returned charging Defendant with: one count of conspiracy to distribute cocaine and marijuana, in violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(B), (b)(1)(D) and 846; one count of possession with the intent to distribute cocaine, in violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(B); one count of carrying a firearm during and in relation to a drug-trafficking crime, in violation of 18 U.S.C. §§ 924(c)(1)(A); one count of being a felon in possession of firearm, in violation of 18 U.S.C. §§ 922(g) and 924(a); and one count of criminal forfeiture pursuant to 21 U.S.C. § 853.

The following matters were discussed and action taken during the pretrial conference:

II. TRIAL COUNSEL

Ms. Mahoney announced that she will be the trial counsel for the government. The case agent to be seated at counsel table Ron Doumitt, Lee's Summit Police Department.

Mr. Pickett announced that he will be the trial counsel for Defendant Cunningham. Travis Willingham may assist.

III. OUTSTANDING MOTIONS

Defendant's Motion to Suppress and Suggestion in Support are currently pending (Doc. Nos. 36, 44).

IV. TRIAL WITNESSES

Ms. Mahoney announced that the government intends to call 12 witnesses without stipulations or 10 witnesses with stipulations during the trial.

Mr. Pickett announced that Defendant Cunningham intends to call 4 witnesses during the trial. Defendant may testify.

V. TRIAL EXHIBITS

Ms. Mahoney announced that the government will offer approximately 50 exhibits in evidence during the trial.

Mr. Pickett announced that Defendant Cunningham will offer approximately 15 exhibits in evidence during the trial.

VI. DEFENSES

Mr. Pickett announced that Defendant Cunningham will rely on the defense of general denial.

VII. POSSIBLE DISPOSITION

Mr. Pickett stated this case may be for trial.

VIII. STIPULATIONS

Stipulations are likely as to chain of custody, chemist's reports, and the interstate nexus of the firearms.

IX. TRIAL TIME

Counsel were in agreement that this case will take 3 days to try.

X. EXHIBIT LIST, VOIR DIRE AND INSTRUCTIONS

The U. S. Magistrate Judge ordered:

That, in addition to the requirements of the Stipulations and Orders filed January 8, 2008, counsel for each party file and serve a list of exhibits he/she intends to offer in evidence at the trial of this case on the form entitled Exhibit Index and have all available exhibits premarked using the stickers provided by the Clerk of Court by September 17, 2008;

That counsel for each party file and serve requested jury voir dire examination questions by or before noon, Wednesday, September 24, 2008;

That counsel for each party file and serve, in accordance with the requirements of Local Rule 51.1, requested jury instructions¹ by or before noon, Wednesday, September 24, 2008. Counsel are requested to provide proposed jury instructions in both hard copy form, as required by Local Rule 51.1, and by e-mail to the trial judge's courtroom deputy.

XI. UNUSUAL QUESTIONS OF LAW

No motions in limine are anticipated. There are no unusual questions of law.

XII. TRIAL SETTING

All counsel and Defendant were informed that this case will be listed for trial on the joint

¹Counsel in all cases assigned to be tried before Chief Judge Fernando Gaitan, Jr., as reflected in the trial letter which is prepared by Judge James England, shall meet and prepare a packet of agreed proposed jury instructions to be submitted to Judge Gaitan and e-mailed to marylynn_shawver@mow.uscourts.gov and rhonda_enss@mow.uscourts.gov by Friday, September 26, 2008. To the extent there are disagreements to certain instructions, each attorney shall tab and submit his or her preference on those instructions. The instructions shall be listed in the order they are to be given.

criminal jury trial docket which commences on September 29, 2008.

/s/ Robert E. Larsen

ROBERT E. LARSEN
U. S. Magistrate Judge

Kansas City, Missouri
September 17, 2008

cc: The Honorable Howard F. Sachs
Ms. Kate Mahoney
Mr. Sean Pickett
Mr. Jeff Burkholder